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## Part A—An Overview of the Snowmobile Act

### 5.1 Introduction

The Snowmobile Act is codified as Part 821 of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.82101 et seq. It was enacted in 1995 as a replacement for the previous snowmobile statute that had been codified as Chapter 15 of the Motor Vehicle Code. See MCL 324.90106, repealing MCL 257.1501 to MCL 257.1543, effective May 24, 1995. All of the provisions that had been in the Vehicle Code were renumbered and codified as Part 821 of the NREPA. The Legislature made no substantive changes to the contents of those provisions. MCL 324.107 states:

“It is the intention of the legislature that editorial changes in the language of statutes codified as parts within this act not be construed as changes to the meanings of those statutes.”

The Snowmobile Act requires all snowmobiles to have a certificate of registration and a registration decal issued by the Secretary of State. MCL 324.82103. In addition, persons who operate snowmobiles in Michigan must obtain snowmobile trail permit stickers, which may be obtained from the Department of Natural Resources (DNR) and from licensed DNR agents. MCL 324.82118.\*

The fees charged for registration certificates and trail permits are credited to the snowmobile trail improvement fund and the snowmobile registration fee fund. See MCL 324.82110 and MCL 324.82111. These funds, in turn, are used to pay for planning, constructing, maintaining, and acquiring trails and areas for snowmobiles, or access to those trails and areas, and basic snowmobile facilities; financial assistance to local units of government and nonprofit incorporations, snowmobile clubs, or organizations considered eligible by the DNR; the DNR’s administration of any of the above. MCL 324.81108 and MCL 324.81109.

The offenses established by the Snowmobile Act can be grouped into the following categories:

- Registration requirements.
- Trail permit requirements.
- Equipment requirements.
- Operation of snowmobiles on public highways and streets.
- Operation of snowmobiles in places where snowmobiles are prohibited.
- Operation of snowmobiles by children less than 17 years of age.

\*See Section 5.2, below, for more information about Michigan’s snowmobile trails and areas.

- Operation of snowmobiles in a careless, unsafe or otherwise prohibited manner.
- Operation of snowmobiles causing death or serious impairment of a body function.
- Failure to stop for peace officers.
- Failure to report accidents.
- Operation of snowmobiles after driving privileges have been suspended.
- Operation of snowmobiles while visibly impaired or intoxicated.
- Operation of snowmobiles while under the influence of intoxicating liquor and/or a controlled substance causing death or serious impairment of a body function.

Except for the drunk driving offenses, each of these offenses is discussed in detail in Part B of this chapter. The drunk driving offenses are discussed in Part C.

## 5.2 Definitions in Snowmobile Act

“‘Snowmobile’ means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code. . . .” MCL 324.82101(s).

“‘Operate’ means to ride in or on and be in actual physical control of the operation of a snowmobile.” MCL 324.82101(i).

“‘Highway or street’ means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel.” MCL 324.82101(e).

“‘Right-of-way’ means that portion of a highway or street less the roadway and any shoulder.” MCL 324.82101(p).

“Owner” means any of the following:

“(i) A person who holds the legal title to a snowmobile.

“(ii) A vendee or lessee of a snowmobile that is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

“(iii) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.” MCL 324.82101(k).

“‘Peace officer’ means any of the following:

“(i) A sheriff.

“(ii) A sheriff’s deputy.

“(iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.

“(iv) A village or township marshal.

“(v) An officer of the police department of any municipality.

“(vi) An officer of the Michigan state police.

“(vii) The director and conservation officers employed by the department.

“(viii) A law enforcement officer who is certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, as long as that officer is policing within his or her jurisdiction.” MCL 324.82101(l).

“‘Roadway’ means that portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.” MCL 324.82101(q).

“‘Shoulder’ means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.” MCL 324.82101(r).

**Note:** The Michigan snowmobile trail system is comprised of over 6,100 miles of trails. This system is located within six state forests, three national forests, and private property. The sections of the trails that cross private property are developed and maintained through the granting of easements.

Unlike the provisions governing the operation of ORVs, the provisions governing the operation of snowmobiles is consistent between the Upper and Lower Peninsulas. Both peninsulas contain a significant number of trails and areas for snowmobiles. Because snowmobiles operate on top of the snow, they do not damage vegetation and young trees to the same extent that ORVs do. Consequently, snowmobiles are often permitted to operate across wider areas of land than ORVs.

## 5.3 Authority of District Court Magistrates Under the Snowmobile Act

### A. Misdemeanors Punishable by Not More Than 93 Days

MCL 600.8511(c), of the Revised Judicature Act, provides that district court magistrates, when authorized by the chief judge of the district court, have the authority to arraign and sentence upon pleas of guilty or nolo contendere for misdemeanor violations of the Snowmobile Act, or substantially corresponding local ordinances, when the maximum penalty does not exceed 93 days in jail or a fine, or both. However, this authority does not include authority to take pleas or sentence defendants convicted of a violation of MCL 324.82128 or MCL 324.82129, or a substantially corresponding local ordinance. For these snowmobile drunk driving offenses,\* the magistrate has limited authority to arraign the defendant and set bail. MCL 600.8511(c).

\*See Part C for a summary of these offenses.

### B. State Civil Infractions

MCL 600.8512(1) states:

“A district court magistrate may hear and preside over civil infraction admissions and admissions with explanation and conduct informal hearings in civil infraction actions pursuant to . . . section 8819[ of the Revised Judicature Act] . . . . In exercising the authority conferred by this subsection, the magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law. If the defendant is determined to be responsible for a civil infraction, the magistrate may impose the civil sanctions authorized by [statute].”

MCL 600.8819, in turn, describes the procedures to follow at informal hearings\* in state civil infraction actions. MCL 600.8819(1) states:

“An informal hearing shall be conducted by a district court magistrate, if authorized by the judge or judges of the district court district, or by a judge of the district court or a municipal court. A district court magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law at an informal hearing. The judge or district court magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law, but is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing is not required.”

\*See Volume 1, Sections 1.13–1.15 for information on informal hearings.

## 5.4 Authority of DNR Conservation Officers Under the Snowmobile Act

**DNR conservation officers.** DNR conservation officers are vested with all the powers and duties conferred upon peace officers. MCL 324.1501 states:

“Conservation officers appointed by the [DNR] and trained and certified pursuant to the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws, are peace officers, and except as otherwise provided by law, are vested with all the powers, privileges, prerogatives, and immunities conferred upon peace officers as provided in this act, in [MCL 300.21 to MCL 300.22], and in the general laws of this state.”

MCL 324.1502 states:

“Except as otherwise provided by law, conservation officers appointed by the [DNR] have the same power to serve criminal process and to require aid in executing criminal process as sheriffs, and are entitled to the same fees as sheriffs in performing those duties under this act, under [MCL 300.21 to MCL 300.22], and under the general laws of this state.”

\*See Section 5.2, above, for the definition of “peace officer.”

**Police officers and peace officers.\*** In addition, police officers and peace officers may issue appearance tickets for both misdemeanors and civil infractions in the Snowmobile Act. MCL 324.82134(1).

**Note:** Unlike their limited arrest authority under the ORV Act, state park and recreation officers are not authorized to enforce the Snowmobile Act. Historically, snowmobile use has not posed a problem in Michigan’s state parks and recreation areas and hence, the DNR did not seek such authority from the Legislature.

In the future, it is likely that the state forest officer will have a limited involvement in enforcement of the Snowmobile Act. As with ORVs, this authority will only exist on state forest lands. See Section 4.4 of this volume for more information about enforcement powers of state park and recreation officers and state forest officers.

## 5.5 Enforcement of the Snowmobile Act on Federal Property

The Snowmobile Act is enforced in the three national forests in Michigan. This includes titling, licensing, and equipment requirements, and most operating restrictions. However, unlike the ORV Act, the Snowmobile Act

does not contain an offense for operating a snowmobile “contrary to operating restrictions on *public lands*.” MCL 324.81133(r). Therefore, Michigan conservation officers do not have authority to issue citations to persons for operating snowmobiles on areas of federal land that are closed to snowmobile operation. However, these persons may be in violation of federal land use regulations and would therefore be subject to arrest and prosecution by federal officers.

## 5.6 Enforcement of the Snowmobile Act on Private Property

All of the offenses within the Snowmobile Act apply to snowmobiles operated on both private property and public property. The only four exceptions are as follows:

- Certificates of registration are not required for snowmobiles operated exclusively on lands owned or under the control of the snowmobile owner. See Section 5.10, below.
- Snowmobile trail permit stickers are not required for snowmobiles operated solely on private property. See Section 5.11, below.
- Crash helmets are not required if a person is riding or operating a snowmobile on his or her own private property. See Section 5.12, below.
- Children under 17 years of age may operate a snowmobile without a safety certificate if they are on property owned or under the control of their parents or guardians. See Section 5.15, below.

**Note:** The DNR Law Enforcement Division believes that the primary responsibility of Michigan’s conservation officers in the area of snowmobile enforcement is protecting natural resources and safeguarding the health and safety of individuals utilizing public lands for recreation. General enforcement of the Snowmobile Act is focused on public lands. Conservation officers do enforce the Snowmobile Act on private property when it is necessary to protect the safety and welfare of an individual in imminent danger (where a child is involved or there is a reasonable suspicion the operator is under the influence) or where damage is being done to public natural resources (damage to streams or regulated wetlands).

Conservation officers also respond to private property cases of reported trespass. Although there is no prohibition in the Snowmobile Act against operating snowmobiles on the private property of others, such conduct would be in violation of the Recreational Trespass Act. See Section 5.14, below, for more information about the Recreational Trespass Act.

## 5.7 Rule Making Authority of DNR

**Snowmobile safety programs.** The DNR is authorized to promulgate administrative rules to implement the state aid for snowmobile safety programs. MCL 324.82107(9). These rules are R 257.1501 through R 257.1511 of the Michigan Administrative Code.

**Snowmobile trail systems.** The DNR is also authorized to promulgate rules to implement the state aid for recreational and snowmobile trails system. MCL 324.82109. These rules are R 257.1521 through R 257.1533 of the Michigan Administrative Code.

**Operation and conduct of snowmobiles.** The Snowmobile Act allows the DNR to promulgate administrative rules to govern the conduct of snowmobiles on the frozen surface of public waters. MCL 324.82125(1) states:

“The department may promulgate rules to govern the operation and conduct of snowmobiles, speed limits, and the times when a snowmobile may be used and to establish and designate areas where snowmobiles may be used in a manner that will ensure compatible use and best protection of the safety and general welfare of the public on the frozen surface of public waters.”

**Wrongful use or occupancy.** The DNR is authorized to promulgate rules to protect the lands under its control from wrongful use or occupancy. This authority is contained in MCL 324.504, which states:

“(1) The [DNR] shall promulgate rules for the protection of the lands and property under its control against wrongful use or occupancy as will ensure the carrying out of the intent of this part to protect the lands and property from depredations and to preserve the lands and property from molestation, spoilation (sic), destruction, or any other improper use or occupancy.

\* \* \*

“(4) The [DNR] shall issue orders necessary to implement rules promulgated under this section. These orders shall be effective upon posting.

“(5) A person who violates a rule promulgated under this section or an order issued under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.”

**Note:** The administrative rules can be viewed on the DNR website at [www.michigan.gov/dnr/0,1607,7-153-10366\\_11861---,00.html](http://www.michigan.gov/dnr/0,1607,7-153-10366_11861---,00.html) (last visited June 29, 2005). Orders issued by the DNR are generally location-specific rules, although they may be statewide



in scope. These orders are also available online at the DNR's website.

## 5.8 Penalty Provisions in the Snowmobile Act

### A. Misdemeanors and State Civil Infractions

Except as otherwise provided, a person who violates the Snowmobile Act is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82133 and MCL 750.504.

The only two state civil infractions in the Snowmobile Act are as follows:

- Failure to obtain a snowmobile trail permit sticker. See Section 5.11, below.
- Operation of a snowmobile in a careless or negligent manner likely to endanger persons or property. See Section 5.16(C), below.

### B. Minimum State Costs and Justice System Assessment

Effective October 1, 2003, a schedule of minimum state costs was established for all misdemeanor and felony convictions, including snowmobile convictions. MCL 600.8381(4) states:

“Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than \$45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than \$40.00 for each conviction for any other misdemeanor or ordinance violation.”

“Specified misdemeanors” are misdemeanor violations of statutory provisions listed in MCL 780.901(h). The only “specified misdemeanors” discussed in this chapter are OWVI and OWI, MCL 324.82127(1) and (3).<sup>\*</sup> The definition of “specified misdemeanor” includes violation of a local ordinance substantially corresponding to MCL 324.82127(1) or (3).

If a court orders a defendant to pay any combination of fines, costs, or assessments, the court shall order the defendant to pay minimum state costs of not less than \$60.00 for felony convictions. MCL 769.1j(1)(a). The only

<sup>\*</sup>See Sections 5.22 and 5.23, below.

felonies discussed in this chapter are OWI causing death, OWI causing serious impairment of a body function, OWI third or subsequent offense, and reckless operation of a snowmobile causing death or serious impairment of a body function.

In addition, the minimum state cost must be a condition of probation. MCL 771.3(1)(g).

Also effective October 1, 2003, a justice system fund assessment of \$10.00 shall be ordered in addition to other fines and costs imposed for state and municipal civil infractions. MCL 600.8727(4) and MCL 600.8827(4).

### **C. Reinstatement Fee After Suspension of Operating Privileges**

Within 14 days of a conviction or entry of a civil infraction determination under the Snowmobile Act, or a substantially corresponding local ordinance, the district court judge or clerk shall prepare and immediately forward an abstract of the case to the Secretary of State. MCL 324.82157(2).

An order not to operate a snowmobile does not expire until the person subject to the order pays the Secretary of State an administrative order processing fee of \$125.00. MCL 324.82155.

## **5.9 Presumption That Owner Was Operator**

The registration number displayed on a snowmobile is prima facie evidence that the owner was the person operating the snowmobile at the time of the offense. MCL 324.82134(2). MCL 324.82134(2) states:

“In a proceeding for a violation of this part involving prohibited operation or conduct, the registration number displayed on a snowmobile constitutes prima facie evidence that the owner of the snowmobile was the person operating the snowmobile at the time of the offense.”

## **Part B—Traffic Offenses in the Snowmobile Act**

### **5.10 Registration Requirements**

#### **A. Statutes**

A snowmobile shall not be operated in Michigan unless the owner first obtains a certificate of registration and a registration decal from the Secretary of State.

MCL 324.82103(1). The fee for a snowmobile certificate of registration and decal is \$22.00 for a three-year period that begins on October 1 and expires September 30 of the third year. MCL 324.82105(2). The certificate of registration shall accompany the vehicle and shall be made available for inspection upon demand by a peace officer.

The registration decal shall be affixed to each side of the forward half of the cowl above the footwell of the snowmobile. MCL 324.82113(1).

**Exceptions.** A certificate of registration or a registration decal is not required for a snowmobile operated exclusively on land owned or under the control of the snowmobile owner; or for a snowmobile used entirely in a safety education and training program conducted by a certified snowmobile safety instructor and authorized by MCL 324.82108. MCL 324.82103(1).

Also, a certificate of registration is not required for a snowmobile that is exclusively operated in a special event of limited duration that is conducted under a permit from the governmental unit having jurisdiction. MCL 324.82104.

If the owner of a snowmobile sells the snowmobile to another person, the new owner must apply to the Secretary of State for a new certificate of registration. MCL 324.82114(3).

**Note:** A snowmobile may be operated in Michigan by a nonresident if the snowmobile has been properly registered in the person's home state and has a registration decal. MCL 324.82103(1) states, in part: "Except as otherwise provided, a snowmobile shall not be operated unless the owner first obtains a certificate of registration and a registration decal." MCL 324.82103(1) does not specify that the registration and decal must be obtained in Michigan. It appears from language in MCL 324.82118(1), which states, "[i]n addition to registration of a snowmobile pursuant to [MCL 324.82105] or *registration in another state or province, . . .*" [emphasis added] that the Legislature intended that all snowmobiles operated in Michigan be registered and have a registration decal on them, regardless of what state issued the registration or decal.

If a nonresident does not, or can not, register his or her snowmobile in his or her home state, he or she may register it in Michigan. However, other than while operating under the exceptions specified above, a snowmobile must be properly registered somewhere.

## B. Penalties

A person who is convicted of a violation of the snowmobile registration requirements shall be fined not more than \$50.00. MCL 324.82103(2).

**Note:** The penalty provision of the registration statute uses the term “convicted” but fails to specify whether the fine is a civil fine or a criminal fine. As a result, the DNR has concluded that a violation of this statute is a criminal offense, rather than a civil infraction. By comparison, the penalty provision for the snowmobile trail permit statute specifically states that a violation of that statute is a state civil infraction. See Section 5.11, below.

## 5.11 Trail Permit Requirements

In addition to the registration requirements, a person who operates a snowmobile in Michigan must purchase a snowmobile trail permit sticker. MCL 324.82118(1). The fee for a trail permit sticker is \$25.00, and the sticker is valid for a one-year period that begins on October 1 and ends on September 30 of the following year. MCL 324.82118(1)(c). It may be purchased from the DNR’s website ([www.michigan.gov/dnr](http://www.michigan.gov/dnr)) or an agent of the DNR. MCL 324.82118(3) and (5).

The snowmobile trail permit sticker must be affixed to the forward half of the snowmobile directly above or below the headlight. MCL 324.82118(4). A person who fails to secure a snowmobile trail permit, or who fails to affix the permit sticker to his or her snowmobile, shall be responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00. MCL 324.82118(11).

A snowmobile trail permit sticker is not required for a snowmobile used solely for transportation on frozen surfaces of public waters for the purpose of ice fishing. MCL 324.82118(8).

## 5.12 Equipment Requirements

### A. Statutes

The equipment required for snowmobile operation is as follows:

- Snowmobiles must have a braking system capable, “while the snowmobile travels on packed snow and carries an operator who weighs 175 pounds or more, of stopping the snowmobile in not more than 40 feet from an initial steady speed of 20 miles per hour or of locking the snowmobile’s traction belt or belts.” MCL 324.82122(1).
- Snowmobiles must not be operated unless they have a headlight and taillight. MCL 324.82122(1). The headlight and taillight must be lighted during operation. MCL 324.82131(1). This requirement does not apply to snowmobiles 25 years old or older. MCL

324.82131(2). The headlight shall not be covered with a lens cap of any color. MCL 324.82131(1).

- Snowmobiles must be equipped with a muffler in good working order and in constant operation from which noise emission may not exceed a statutorily designated level. MCL 324.82126(1)(d). **Note:** Snowmobiles manufactured after July 1, 1977 may not be sold or offered for sale in Michigan unless they have mufflers from which noise emission does not exceed a statutorily designated level. *Id.*
- A person operating or riding on a snowmobile shall wear a United States Department of Transportation approved crash helmet. MCL 324.82123. This requirement does not apply to a person operating a snowmobile on his or her own private property. *Id.*
- If a snowmobile is manufactured after July 1, 1978, a person is prohibited from selling or offering to sell the snowmobile in Michigan unless it meets the minimum safety standards for snowmobile product certification. The standards include machine sound levels, seats, controls, brake systems, fuel systems, shields and guards, electrical systems and lighting, reflectors, handgrips, and general hazard requirements. MCL 324.82122(2).

## B. Penalties

A violation of any of these equipment requirements is a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82133 and MCL 750.504.

## 5.13 Operation of Snowmobiles on Public Highways and Streets

### A. Statute

MCL 324.82119 states:

“A person shall not operate a snowmobile upon a public highway, land used as an airport or street, or on a public or private parking lot not specifically designated for the use of snowmobiles, except under the following conditions and circumstances:

\*See Section 5.2, above, for definitions of highway and right-of-way.

“(a) A snowmobile may be operated on the right-of-way of a public highway, except a limited access highway, if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway.\* However, a snowmobile may be operated on the right-of-way of a public highway against the flow of traffic if the right-of-way is a snowmobile trail designated by the [DNR] in the plan developed pursuant to [MCL 324.82106(2)] and is approved by the state transportation department and the [DNR]. Snowmobiles operated on the right-of-way of a public highway, as provided in this subdivision, shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway, as provided in this subdivision, shall be limited to the speed limit posted on the public highway.

“(b) A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to an approaching vehicle on the highway.

\* \* \*

“(d) A snowmobile may be operated across a public highway other than a limited access highway, at right angles to the highway, for the purpose of getting from 1 area to another when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the same general area. An operator shall bring his or her snowmobile to a complete stop before proceeding across the public highway and shall yield the right-of-way to all oncoming traffic.

“(e) Snowmobiles may be operated on a highway in a county road system that is not normally snowplowed for vehicular traffic and on the plowed right-of-way or shoulder when no right-of-way exists on a snowplowed highway in the county road system, outside the corporate limits of a city or village, that is designated and marked for snowmobile use by the county road commission having jurisdiction. Upon the request of a county road commission that has designated all county roads outside the corporate limits of a city or village for snowmobile use, the state transportation department shall erect at county road commission expense and shall maintain, in accordance

with the Michigan manual of uniform traffic control devices standards, the basic snowmobile sign unit together with a supplemental panel stating ‘permitted on right-of-way or shoulder of all ..... (county name) roads-Act 74 of P.A. 1968’ at the county line on all state trunk line highways and county roads.

“(f) A duly constituted law enforcement officer of a local unit of government or the state may authorize use of a snowmobile on a public highway or street within his or her jurisdiction when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

“(g) A snowmobile may be operated on a highway or street for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the [DNR].

“(h) A city or village by ordinance may designate 1 or more specific public highways or streets within its jurisdiction as egress and ingress routes for the use of snowmobiles. A city or village acting under the authority of this subdivision shall erect and maintain, in accordance with the Michigan manual of uniform traffic control devices standards, a sign unit giving proper notice of the designation.”

## **B. Penalties**

A violation of any of these provisions is a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82133 and MCL 750.504.

## 5.14 Operation of Snowmobiles in Places Where Snowmobiles Are Prohibited

### A. Statutes

MCL 324.82126(1) prohibits a person from operating a snowmobile under any of the following circumstances:

“(a) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing.

“(b) In a forest nursery, planting area, or on public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or posted or reasonably identifiable as a natural dedicated area that is in zone 2 or zone 3.\*

“(c) On the frozen surface of public waters as follows:

(i) Within 100 feet of a person, including a skater, who is not in or upon a snowmobile.

(ii) Within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile.

(iii) On an area that has been cleared of snow for skating purposes unless the area is necessary for access to the public water.

\* \* \*

“(e) Within 100 feet of a dwelling between 12 midnight and 6 a.m., at a speed greater than the minimum required to maintain forward movement of the snowmobile.

“(f) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except under 1 or more of the following circumstances:

(i) During an emergency.

(ii) For law enforcement purposes.

(iii) To go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle.

\*Zones 2 and 3 are the Lower Peninsula of Michigan.  
MCL 324.82101(u) and (v).



(iv) For the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations.

(v) On the person's own property or property under the person's control or as an invited guest.

\* \* \*

“(h) On or across a cemetery or burial ground.

“(i) Within 100 feet of a slide, ski, or skating area except when traveling on a county road right-of-way pursuant to [MCL 324.82119] or a snowmobile trail that is designated and funded by the [DNR]. A snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies.

“(j) On a railroad or railroad right-of-way. This prohibition does not apply to railroad personnel, public utility personnel, law enforcement personnel while in the performance of their duties, and persons using a snowmobile trail located on or along a railroad right-of-way, or an at-grade snowmobile trail crossing of a railroad right-of-way, that has been expressly approved in writing by the owner of the right-of-way and each railroad company using the tracks and that meets the conditions imposed in subsections (2) and (3). A snowmobile trail or an at-grade snowmobile trail crossing shall not be constructed on a right-of-way designated by the federal government as a high-speed rail corridor.”

MCL 324.82126(4) states: “Notwithstanding [MCL 324.82101\*], as used in this section, ‘operate’ means to cause to function, run, or manage.”

**Note:** There is no prohibition in the Snowmobile Act against operating snowmobiles on the private property of other persons. However, such conduct may be in violation of MCL 324.73102 of the Recreational Trespass Act, which prohibits recreational activity on the property of another without written consent of the owner.

\*See Section 5.2, above, for the definition of “operate” found in MCL 324.82101.

## B. Penalties

A violation of any of these provisions is a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82133 and MCL 750.504.

## 5.15 Operation of Snowmobiles by Children Less Than 17 Years of Age

All persons less than 17 years of age who operate a snowmobile must have a snowmobile safety certificate in their possession. MCL 324.82108(1) and (6). A person who violates this provision is subject to a fine of not more than \$25.00. *Id.* The fee charged for the safety education and training program shall not be more than \$5.00. MCL 324.82108(3). A person who has a valid safety certificate from another state or province is not required to complete the safety education and training in Michigan. MCL 324.82108(7).

MCL 324.82120 establishes additional requirements for children less than 17 years of age. The following chart summarizes these requirements:

**Chart 5.15—Operation of Snowmobiles by Minors - Misdemeanors**

Person Responsible	Prohibited Conduct	Statutory Reference
Parent or legal guardian of children less than 12 years of age.	Operating a snowmobile without the direct supervision of an adult except on land owned or under the control of the parent or legal guardian.	MCL 324.82120(1).
Children at least 12 but less than 17 years of age.	May only operate a snowmobile if one of the following conditions exist:  “(a) The person is under the direct supervision of a person who is 21 years of age or older.  “(b) The person has in his or her immediate possession a snowmobile safety certificate issued pursuant to a program conducted under [MCL 324.82107].  “(c) The person is on land owned or under the control of his or her parent or legal guardian.  “(d) The person possesses a snowmobile safety certificate issued to the person under the authority of a law of another state or province of Canada.”	MCL 324.82120(2).
Children less than 12 years of age.	When operating a snowmobile may not cross a highway or street.	MCL 324.82120(4).

Person Responsible	Prohibited Conduct	Statutory Reference
Children at least 12 but less than 17 years of age.	When operating a snowmobile may not cross a highway or street unless he or she has a valid snowmobile safety certificate in his or her immediate possession.	MCL 324.82120(4).

A person between the ages of 12 and 17 that is operating a snowmobile under MCL 324.82120(2)(b) (operation while in possession of a safety certificate) shall present the snowmobile safety certificate to any peace officer upon demand. MCL 324.82120(3).

MCL 324.82120(5) prohibits the owner of a snowmobile from permitting the operation of a snowmobile contrary to this section.

### Penalties

A person who violates any of these provisions is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82133 and MCL 750.504.

If the judge of a juvenile court find that a juvenile has violated this part, the judge must immediately report the determination to the DNR. Upon receiving the notice, the DNR may suspend a snowmobile safety certificate without a hearing. MCL 324.82120(6).

## 5.16 Operation of Snowmobiles in a Reckless, Careless, Unsafe, or Otherwise Prohibited Manner

### A. Unsafe or Prohibited Manner

#### 1. Statutes

The following offenses deal with the manner in which a snowmobile is operated:

- A snowmobile shall not be used to hunt, pursue, worry, or kill a wild bird or animal. MCL 324.82121.

\*See Section 5.2, above, for the definition of “operate” found in MCL 324.82101.

- A snowmobile shall not be operated at a rate of speed greater than is reasonable and proper for existing conditions. MCL 324.82126(1)(a).
- A person shall not operate a snowmobile while transporting a bow, unless unstrung or encased. MCL 324.82126(1)(g).
- A person shall not operate a snowmobile while transporting a firearm, unless unloaded in both barrel and magazine and securely encased. *Id.*

MCL 324.82126(4) states:

“Notwithstanding [MCL 324.82101\*], as used in this section, ‘operate’ means to cause to function, run, or manage.”

## 2. Penalties

A person who commits any of these offenses is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82133 and MCL 750.504.

## B. Reckless Operation of a Snowmobile

### 1. Statute

MCL 324.82126b(1) states:

“A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a public lake, stream, river, pond, or another public place, including, but not limited to, an area designated for the parking of snowmobiles or other motor vehicles, in willful or wanton disregard for the safety of persons or property.”

### 2. Penalty

A person who violates this offense is guilty of a misdemeanor punishable by a fine of not more than \$250.00. MCL 324.82126b(2).

## C. State Civil Infractions for Careless Operation of a Snowmobile

### 1. Statute

MCL 324.82126a(1) states:

“A person shall not operate a snowmobile upon a highway, public trail, frozen surface of a lake, stream, river, pond, or another public place, including but not limited to an area designated for the parking of snowmobiles or other motor vehicles, in a careless or negligent manner likely to endanger any person or property.”

### 2. Penalty

A person who violates MCL 324.82126a(1) is responsible for a state civil infraction. See Volume 1, Section 1.20 for information on assessing civil fines, costs, and assessments for civil infractions.

## 5.17 Careless, Negligent, or Reckless Operation of a Snowmobile Causing Death or Serious Impairment of a Body Function

### A. Careless or Negligent Operation Causing Death or Serious Impairment of a Body Function

#### 1. Statute

MCL 324.82126c(1) states:

“A person who operates a snowmobile in a careless or negligent manner causing the death or serious impairment of bodily function\* of another is guilty of a misdemeanor. . . .”

#### 2. Penalties

A person who violates MCL 324.82126c(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than two years; or
- fine of not more than \$2,000.00; or
- both.

MCL 324.82126c(1).

\*See subsection 5.17(C), below, for the definition of “serious impairment of a bodily function.”

**Suspension of snowmobile operating privileges.** MCL 324.82126c(4) states:

“Upon a person’s conviction of a violation under this section, the court may issue an order prohibiting the person from operating a snowmobile in this state for a period of 2 or more years in the discretion of the court. An order issued under this section is in addition to any other penalty authorized under this part.”

## **B. Reckless Operation Causing Serious Impairment of a Body Function**

### **1. Statute**

MCL 324.82126c(2) states:

“A person who, by the operation of a snowmobile in a careless and heedless manner in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, causes the serious impairment of bodily function,\* but does not cause death of another, is guilty of the offense of felonious operation . . . .”

\*See subsection 5.17(C), below, for the definition of “serious impairment of a bodily function.”

### **2. Penalties**

A person who violates MCL 324.82126c(2) is guilty of a felony punishable by:

- imprisonment for not more than two years; or
- fine of not more than \$2,000.00; or
- both.

MCL 324.82126c(2).

**Suspension of snowmobile operating privileges.** MCL 324.82126c(4) states:

“Upon a person’s conviction of a violation under this section, the court may issue an order prohibiting the person from operating a snowmobile in this state for a period of 2 or more years in the discretion of the court. An order issued under this section is in addition to any other penalty authorized under this part.”

**License sanctions.** The Secretary of State will assess six points against the defendant’s driving record when the defendant is convicted of reckless operation of a snowmobile causing serious impairment of a body function. MCL 257.320a(1)(a).

The Secretary of State must impose a \$1,000.00 driver responsibility fee for a conviction of MCL 324.82126c(2) or a substantially corresponding local ordinance. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in driver's license suspension. MCL 257.732a(3), (5).

### **C. Serious Impairment of a Body Function Defined**

As used in MCL 324.82126c, "serious impairment of bodily function" includes, but is not limited to, one or more of the following:

- “(a) Loss of limb or use of limb.
- “(b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- “(c) Loss of an eye or ear or use of an eye or ear.
- “(d) Loss or substantial impairment of a bodily function.
- “(e) Serious visible disfigurement.
- “(f) A comatose state that lasts for more than 3 days.
- “(g) Measurable brain damage or mental impairment.
- “(h) A skull fracture or other serious bone fracture.
- “(i) Subdural hemorrhage or subdural hematoma.”

MCL 324.82126c(3).

## **5.18 Failure to Stop for Peace Officers**

The Snowmobile Act has two statutory sections that provide that it shall be a misdemeanor to fail to stop for a peace officer. MCL 324.82135 states:

“An operator of a snowmobile who is given by hand, voice, emergency light, or siren a visual or audible signal by a peace, police, or conservation officer acting in the lawful performance of his or her duty, directing the operator to bring his or her snowmobile to a stop, and who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights, or who otherwise attempts to flee or elude the officer, is guilty of a misdemeanor. The officer giving the signal shall be in uniform. A vehicle or snowmobile which is used by an officer at night for

purposes of enforcing this part shall be identified as an official law enforcement vehicle or snowmobile.”

MCL 324.82158(1)–(2) state:

“(1) The operator or person in charge of a snowmobile being used or operated in this state, who is by hand, voice, emergency light or siren, or a visual or audible signal directed to bring his or her snowmobile to a stop by any peace, police, or conservation officer who is in uniform and empowered to enforce this part or the provisions of a local ordinance or rules established under this part, shall immediately bring the snowmobile to a stop or maneuver it in a manner that permits the officer to come alongside. A vehicle or snowmobile that is used by an officer at night for purposes of enforcing this part shall be identified as an official law enforcement vehicle or snowmobile. The operator or person in charge of the snowmobile and any other person on board shall give his or her correct name and address, exhibit the certificate of registration awarded for the snowmobile, and submit to a reasonable inspection of the snowmobile and to a reasonable inspection and test of the equipment of the snowmobile.

“(2) A person who willfully fails to obey the direction by increasing his or her speed or extinguishing his or her lights, or who otherwise attempts to flee or elude the officer, is guilty of a misdemeanor.”

**False identification.** In addition to failing to stop, it is unlawful to give false identification after being stopped. MCL 324.82158(3) states:

“A person who is detained for a violation of this part or of a local ordinance substantially corresponding to a provision of this part and who furnishes a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.”

## 5.19 Failure to Report Accidents

### A. Statute

MCL 324.82132 states:

“The operator of a snowmobile involved in an accident resulting in injuries to or the death of any person or property damage in an estimated amount of \$100.00 or more shall immediately by the quickest means of communication notify a state police officer or officers, the sheriff’s office of the county in which the accident occurred, or the office of the police department of the local unit of



government in which the accident occurred. The police agency receiving the notice shall complete a report of the accident on forms prescribed by the director of the department of state police and forward the report to the department of state police within 14 days after the date of the accident. The department of state police shall forward a copy of all snowmobile accident reports to the [DNR] within 14 days after receipt of the accident report.”

## **B. Penalty**

A person who fails to make such a report is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82133 and MCL 750.504.

## **5.20 Operation of Snowmobile After Operating Privileges Have Been Suspended**

### **A. Statute**

MCL 324.82152(1) states:

“A person who is ordered not to operate a snowmobile and who has been notified of the order by personal service or first-class mail shall not operate a snowmobile. A person shall not knowingly permit a snowmobile owned by the person to be operated by a person who is subject to such an order. . . .”

### **B. Penalties**

#### **1. First Offense**

A person convicted of violating MCL 324.82152(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 90 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82152(1)(a).

## 2. Second or Subsequent Offense

A person convicted of a second or subsequent violation of MCL 324.82152(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than one year; or
- fine of not more than \$1,000.00; or
- both.

MCL 324.82152(1)(b).

## 3. Suspension of Operating Privileges

The Secretary of State must extend the length of time for the suspension of operating privileges when a person is found guilty of violating MCL 324.82152. MCL 324.82152(2)–(3) state:

“(2) Upon receiving a record of the conviction or probate court disposition of a person upon a charge of unlawful operation of a snowmobile while the person is subject to an order not to operate a snowmobile, the secretary of state shall immediately extend the length of the order for an additional like period.

“(3) If the secretary of state receives records of more than 1 conviction or probate court disposition resulting from the same incident, all of the convictions or probate court dispositions shall be treated as a single violation for purposes of extending the length of an order under subsection (2).”

## 4. Impoundment of Snowmobile

When a defendant is convicted under MCL 324.82152(1), the snowmobile must be impounded for not less than 30 days or more than 120 days from the date of judgment, if the snowmobile is owned by the defendant. MCL 324.82153(1).

# 5.21 Operation of Snowmobile While Driver's License Is Suspended or Revoked

## A. Statute

A person may not operate a snowmobile while his or her driver's license is suspended or revoked. MCL 324.82147a(1) states:

“(1) If the operator's or chauffeur's license of a person who is a resident of this state is suspended or revoked by the secretary of

state under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or if the driver license of a person who is a nonresident is suspended or revoked under the law of the state in which he or she resides, that person shall not operate a snowmobile under this part for the same period.”

## **B. Penalties**

### **1. First Offense**

A person who violates MCL 324.82147a(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 93 days; or
- fine of not more than \$500.00; or
- both.

MCL 324.82147a(2)(a).

### **2. Second or Subsequent Offense**

A person convicted of a second or subsequent violation of MCL 324.82147a(1) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 180 days; or
- a fine of not more than \$1,000.00; or
- both.

MCL 324.82147a(2)(b).

## **Part C—Drunk Driving Offenses in the Snowmobile Act**

Due to changes in the law, the acronyms for drunk driving offenses have changed. Previously, operating while visibly impaired was referred to as OWI. The new acronym for operating while visibly impaired is OWVI. Previously, operating while under the influence of intoxicating liquor, operating with an unlawful blood alcohol content, and operating under the influence of a controlled substance were referred to as OUIL, UBAC, and OUID respectively. The new acronym for all three of these offenses is OWI.

## 5.22 Operating a Snowmobile While Visibly Impaired (OWVI)

### A. Statutes

MCL 324.82127(3) states, in part:

“A person shall not operate a snowmobile when, due to the consumption of an intoxicating liquor or a controlled substance, or both, the person’s ability to operate the snowmobile is visibly impaired. . . .”

Before accepting a guilty or no contest plea, the court must advise the accused of “the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation.” MCL 324.82141(1).

### B. Penalties

MCL 324.82141(2) requires the court to order an alcohol assessment prior to sentencing a person convicted of OWVI. MCL 324.82141(2) states:

“Before imposing sentence, other than court-ordered operating sanctions, for a violation of [MCL 324.82127](1), (3), (4), or (5) or a local ordinance substantially corresponding to [MCL 324.82127](1) or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.”

#### 1. First Offense

A person convicted of OWVI is guilty of a misdemeanor punishable by one or more of the following:

- community service for not more than 45 days;
- imprisonment for not more than 93 days;
- fine of not more than \$300.00.

MCL 324.82129(1)(a)(i)–(iii).

The court shall also order that “the person convicted not operate a snowmobile for not less than 90 days or more than 1 year.” MCL 324.82142(1)(c)(i).

**Note:** Notwithstanding any court-ordered suspension, or if the court has not entered an order prohibiting the defendant from operating a snowmobile, upon receiving notice of a conviction for OWVI, the Secretary of State shall issue an order that the defendant not operate a snowmobile. See MCL 324.82147(1) for more information.

## 2. Second Offense

A person who is convicted of violating MCL 324.82127(3) and the violation occurred within seven years of a prior conviction shall be sentenced to a fine of not less than \$200.00 or more than \$1,000.00, and either community service (with discretionary imprisonment) or a term of imprisonment (with discretionary community service). Specifically, MCL 324.82129(1)(b) states:

“If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

“(i) Community service for not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

“(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.”

“Prior conviction” means a conviction for violating:

- MCL 324.82127(1), (3), (4), or (5);
- MCL 257.1515a(1), (3), (4), or (5);
- former MCL 257.1515a;
- a local ordinance substantially corresponding to MCL 324.82127(1) or (3) or former MCL 257.1515a; or
- a law of another state substantially corresponding to MCL 324.82127(1), (3), (4), or (5), or former MCL 257.1515a.

MCL 324.82129(4).

The court shall also order that “the person convicted not operate a snowmobile for not less than 6 months or more than 2 years.” MCL 324.82142(1)(c)(ii)

**Note:** Notwithstanding any court-ordered suspension, or if the court has not entered an order prohibiting the defendant from operating a snowmobile, upon receiving notice of a conviction for OWVI the Secretary of State shall issue an order that the defendant

not operate a snowmobile. See MCL 324.82147(1) for more information.

### 3. Third or Subsequent Offense

A person who is convicted of violating MCL 324.82127(3) and the violation is the third or subsequent conviction within ten years shall be sentenced to a fine of not less than \$200.00 or more than \$1,000.00, and either community service (with discretionary imprisonment) or a term of imprisonment (with discretionary community service). Specifically, MCL 324.82129(1)(c) states:

“If the violation occurs within 10 years of 2 or more prior convictions, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00, and either of the following:

“(i) Community service for a period of not less than 10 days or more than 90 days, and may be sentenced to imprisonment for not more than 1 year.

“(ii) Imprisonment for not more than 1 year, and may be sentenced to community service for not more than 90 days.”

For a third or subsequent offense, “the court shall order, without an expiration date, the person not to operate a snowmobile.” MCL 324.82142(1)(c)(iii).

**Note:** Notwithstanding any court-ordered suspension, or if the court has not entered an order prohibiting the defendant from operating a snowmobile, upon receiving notice of a conviction for OWVI the Secretary of State shall issue an order that the defendant not operate a snowmobile. See MCL 324.82147(1) for more information.

### 4. License Sanctions

The municipal judge or clerk of the court shall prepare and immediately forward to the Secretary of State an abstract for each case charging a violation of MCL 324.82127(3). MCL 324.82141(3). The Secretary of State will assess four points against the defendant’s driving record when the defendant is convicted of operating a snowmobile while visibly impaired. MCL 257.320a(1)(i).

### 5. Costs of Prosecution

The court may order a defendant to pay the costs of prosecution pursuant to MCL 760.1 to 777.69. MCL 324.82129(2).

## 5.23 Operating a Snowmobile While Under the Influence of Intoxicating Liquor and/or a Controlled Substance or With an Unlawful Bodily Alcohol Content (OWI)

### A. Statutes

MCL 324.82127(1) states:

“(1) A person shall not operate a snowmobile in this state if either of the following applies:

“(a) The person is under the influence of intoxicating liquor or a controlled substance, or both.

“(b) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

### B. Penalties

#### 1. First Offense

A person convicted of violating MCL 324.82127(1) is guilty of a misdemeanor punishable by one or more of the following:

- community service for not more than 45 days;
- imprisonment for not more than 93 days; or
- fine of not less than \$100.00 or more than \$500.00.

MCL 324.82128(1)(a)(i)–(iii).

**Note:** A person charged with violating MCL 324.82127(1) may be found guilty of OWVI. MCL 324.82127(3). See Section 5.22, above, for information on OWVI.

The court shall order that a defendant convicted of OWI “not operate a snowmobile for not less than 6 months or more than 2 years and shall require that the person take and successfully complete the snowmobile safety education and training program before operating a snowmobile.” MCL 324.82142(1)(b)(i).

**Note:** Notwithstanding any court-ordered suspension, or if the court has not entered an order prohibiting the defendant from operating a snowmobile, upon receiving notice of a conviction for OWI the Secretary of State shall issue an order that the defendant not operate a snowmobile. See MCL 324.82147(1) for more information.

## 2. Second Offense

A person who is convicted of violating MCL 324.82127(1) within seven years of a prior conviction shall be sentenced to a mandatory fine of not less than \$200.00 and not more than \$1,000.00, and either community service (with discretionary imprisonment) or a term of imprisonment (with discretionary community service). Specifically, MCL 324.82128(1)(b) states:

“(1) If a person is convicted of violating [MCL 324.82127(1)], the following apply:

\* \* \*

“(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following:

(i) Community service for not less than 10 days or more than 90 days, and may be imprisoned for not more than 1 year.

(ii) Imprisonment for not less than 48 consecutive hours or more than 1 year, and may be sentenced to community service for not more than 90 days.”

If a term of imprisonment is imposed pursuant to MCL 324.82128(1)(b)(ii), that term shall not be suspended. MCL 324.82128(2).

“Prior conviction” means a conviction for violating:

- MCL 324.82127(1), (4), or (5);
- former MCL 257.1515a(1), (4), or (5);
- former MCL 257.1515a;
- a local ordinance substantially corresponding to MCL 324.82127(1) or former MCL 257.1515a; or
- a law of another state substantially corresponding to MCL 324.82127(1), (4), or (5), or former MCL 257.1515a.

MCL 324.82128(6).



**Suspension of snowmobile operating privileges.** If the defendant has one prior conviction for OWVI\* within seven years, the court shall order “that the person not operate a snowmobile for not less than 6 months or more than 2 years and shall require that the person take and successfully complete the snowmobile safety education and training program before operating a snowmobile.” MCL 324.82142(1)(b)(i). If the defendant’s prior conviction is not for OWVI then MCL 324.82142(1)(b)(ii) controls. MCL 324.82142(1)(b)(ii) states:

“If the court finds that the person has 1 or more prior convictions within 7 years for a violation of [MCL 324.82127(1), (4), or (5)\*], former section 15a(1), (4), or (5) of Act No. 74 of the Public Acts of 1968, or former section 15a, a local ordinance substantially corresponding to [MCL 324.82127(1)] or former section 15a, or a law of another state substantially corresponding to [MCL 324.82127(1), (4), or (5)] or former section 15a, . . . the court shall order, without an expiration date, that the person not operate a snowmobile.”

**Note:** Notwithstanding any court-ordered suspension, or if the court has not entered an order prohibiting the defendant from operating a snowmobile, upon receiving notice of a conviction for OWI within seven years of a prior conviction the Secretary of State shall issue an order that the defendant not operate a snowmobile. See MCL 324.82147 and MCL 324.82148(1) for more information.

### 3. Third or Subsequent Offense

A person who is convicted of MCL 324.82127(1) and the offense is a third or subsequent offense within ten years is guilty of a felony punishable by:

- imprisonment for not less than one year or more than five years; or
- fine of not less than \$500.00 or more than \$5,000.00; or
- both.

MCL 324.82128(1)(c).

The court shall order, without an expiration date, that the defendant not operate a snowmobile. MCL 324.82142(1)(b)(ii). For the purposes of MCL 324.82142(1)(b)(ii), a “prior conviction” is a conviction for a violation of MCL 324.82127(1)(OWI), (3)(OWVI), (4)(OWI causing death), (5)(OWI causing serious impairment of a body function), or “former section 15a(1), (3), (4), (5) or section 15a, or another snowmobile substance abuse offense.” MCL 324.82142(1)(b)(ii).

\*The conviction can be based on the law of another state that is substantially similar to Michigan’s OWVI statute.

\*OWI, OWI causing death, OWI causing serious impairment of a body function.

#### 4. License Sanctions

The municipal judge or clerk of the court shall prepare and immediately forward to the Secretary of State an abstract for each case charging a violation of MCL 324.82127(1). MCL 324.82141(3). The Secretary of State will assess six points against the defendant's driving record when the defendant is convicted of OWI. MCL 257.320a(1)(c).

The Secretary of State must impose a \$1,000.00 driver responsibility fee for the third or subsequent conviction of MCL 324.82127(1) or a substantially corresponding local ordinance. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in driver's license suspension. MCL 257.732a(3), (5).

#### 5. Costs of Prosecution

The court may order a defendant to pay the costs of prosecution pursuant to MCL 760.1 to 777.69. MCL 324.82128(4).

### 5.24 OWI Causing Death

#### A. Statute

MCL 324.82127(4) states:

“A person who operates a snowmobile under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that snowmobile causes the death of another person is guilty of a felony . . . .”

#### B. Penalties

A conviction of MCL 324.82127(4) is a felony punishable by:

- imprisonment for not more than 15 years; or
- fine of not less than \$2,500.00 or more than \$10,000.00; or
- both.

MCL 324.82127(4).

**Note:** A person may be charged with and convicted of MCL 324.82127(4) for each death arising out of the same criminal

transaction, and the court may order the terms of imprisonment to be served consecutively to each other. MCL 769.36(1)(c).

The court shall order, without an expiration date, that the defendant not operate a snowmobile. MCL 324.82142(1)(a).

**Note:** Notwithstanding any court-ordered suspension, or if the court has not entered an order prohibiting the defendant from operating a snowmobile, upon receiving notice of a conviction for OWI causing death the Secretary of State shall issue an order that the defendant not operate a snowmobile. See MCL 324.82147(1) for more information.

**License sanctions.** The Secretary of State will assess six points against the defendant's driving record when the defendant is convicted of OWI causing death. MCL 257.320a(1)(a).

The Secretary of State must impose a \$1,000.00 driver responsibility fee for a conviction of MCL 324.82127(4) or a substantially corresponding local ordinance. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in driver's license suspension. MCL 257.732a(3), (5).

**Reimbursement to state or local governments.** The court may order a person convicted of OWI causing death to "reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person[.]" MCL 769.1f(1)(c).

## 5.25 OWI Causing Serious Impairment of a Body Function

### A. Statute

MCL 324.82127(5) states:

"A person who operates a snowmobile under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that snowmobile causes a serious impairment of a body function of another person is guilty of a felony . . . . As used in this subsection, 'serious impairment of a body function' includes, but is not limited to, 1 or more of the following:

"(a) Loss of a limb or use of a limb.

“(b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.

“(c) Loss of an eye or ear or use of an eye or ear.

“(d) Loss or substantial impairment of a bodily function.

“(e) Serious visible disfigurement.

“(f) A comatose state that lasts for more than 3 days.

“(g) Measurable brain damage or mental impairment.

“(h) A skull fracture or other serious bone fracture.

“(i) Subdural hemorrhage or subdural hematoma.”

## B. Penalty

A person convicted of MCL 324.82127(5) is guilty of a felony punishable by:

- imprisonment for not more than five years; or
- fine of not less than \$1,000.00 or more than \$5,000.00; or
- both.

MCL 324.82127(5).

The court shall order, without an expiration date, that the defendant not operate a snowmobile. MCL 324.82142(1)(a).

**Note:** Notwithstanding any court-ordered suspension, or if the court has not entered an order prohibiting the defendant from operating a snowmobile, upon receiving notice of a conviction for OWI causing serious impairment of a body function the Secretary of State shall issue an order that the defendant not operate a snowmobile. See MCL 324.82147(1) for more information.

**License sanctions.** The Secretary of State will assess six points against the defendant’s driving record when the defendant is convicted of OWI causing serious impairment of a body function. MCL 257.320a(1)(a).

The Secretary of State must impose a \$1,000.00 driver responsibility fee for a conviction of MCL 324.82127(5) or a substantially corresponding local ordinance. MCL 257.732a(2)(a)(i). The fee shall be assessed for two consecutive years. Failure to pay a driver responsibility fee within the time prescribed will result in driver’s license suspension. MCL 257.732a(3), (5).

**Reimbursement to state or local governments.** The court may order a person convicted of OWI causing serious impairment of a body function to “reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person[.]” MCL 769.1f(1)(c).

## **5.26 Knowingly Allowing Another to Operate a Snowmobile While Under the Influence of Intoxicating Liquor and/or a Controlled Substance**

### **A. Statute**

MCL 324.82127(2) states:

“The owner of a snowmobile or a person in charge or in control of a snowmobile shall not authorize or knowingly permit the snowmobile to be driven or operated by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.”

### **B. Penalties**

A person convicted of violating MCL 324.82127(2) is guilty of a misdemeanor punishable by:

- imprisonment for not more than 93 days; or
- fine of not less than \$100.00 or more than \$500.00; or
- both.

MCL 324.82128(5).

## **5.27 Chemical Tests of Blood, Urine, or Breath**

### **A. Implied Consent Provisions of the Snowmobile Act**

MCL 324.82143(1)–(2) state:

“(1) A person who operates a snowmobile is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence

of a controlled substance, or both, in his or her blood in all of the following circumstances:

“(a) The person is arrested for a violation of section 82127(1), (3), (4), or (5) or a local ordinance substantially corresponding to section 82127(1) or (3).

“(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a snowmobile, and the peace officer had reasonable grounds to believe that the person was operating the snowmobile while impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or while having a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

“(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.”

## **B. Suspension of Operating Privileges for Refusing to Submit to Chemical Test**

If a person refuses to submit to a chemical test and has not requested a hearing pursuant to MCL 324.82143(1), the Secretary of State shall order that person to not operate a snowmobile for six months. If that person has a second or subsequent refusal within seven years, the order shall be for one year. MCL 324.82146(1).

## **C. State Civil Infractions for Refusing to Submit to a Preliminary Chemical Breath Analysis Test (PBT)**

A person who refuses to submit to a preliminary chemical breath analysis test (PBT) upon a lawful request by a peace officer is guilty of a misdemeanor. MCL 324.82136(2)(d).

## **D. Admissibility of PBT Chemical Tests**

The results of a PBT shall be admissible as evidence solely to assist the court in determining a challenge to the validity of the arrest. MCL 324.82136(2)(b).